

Message Text

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ORIGIN COME-00

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-----192349Z 093639 /14
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FM SECSTATE WASHDC
TO AMEMBASSY BUCHAREST IMMEDIATE

C O N F I D E N T I A L STATE 115345

E.O. 11652: GDS

TAGS: EINV, EMIN, EEW, RO, US

SUBJECT: ISLAND CREEK JOINT VENTURE

REFS: (A) BUCH 3429 (B) BUCH 3120

1. BEWT OFFICER'S CONVERSATION WITH BOTH ATTORNEYS FOR ROMANIA (SURREY LAW FIRM) AND WITH ADMIRAL SHEPARD OF ISLAND CREEK CONFIRM EMBASSY UNDERSTANDING PER REF A THAT MEETINGS SCHEDULED TO BEGIN MAY 24 IN BUCHAREST INVOLVING GOR OFFICIALS AND BOTH ABOVE PARTIES. WE UNDERSTAND NEGOTIATIONS NOW EXPECTED TO RUN THROUGH FRIDAY MAY 27. ADMIRAL SHEPARD ALSO INFORMED US THAT DR. ARMAND HAMMER OF OCCIDENTAL PETROLEUM WILL COME TO BUCHAREST.

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2. PURPOSE OF VISIT IS TO FINALIZE CONTRACT NEGOTIATIONS BUT SURREY ATTORNEY CAUTIONED THAT CONTRACT IS VERY LONG AND COMPLEX AND THAT A NUMBER OF MAJOR ISSUES MUST BE NEGOTIATED, INCLUDING TRANSPORTATION ISSUE RESULTING FROM PORT SECURITY PROBLEM (SEE PARA 4 BELOW). ISLAND CREEK VIEW EXPRESSED BY ADMIRAL SHEPARD THAT PARTIES ARE CLOSE TO FINALIZATION ON CONTRACT AND THAT ONLY SMALL DETAILS

ARE LEFT IS, IN BEWT'S OPINION, PROBABLY OVERLY

OPTIMISTIC. LENGTH AND COMPLEXITY OF CONTRACT, FAILURE TO DISCUSS TRANSPORTATION ISSUE AT LENGTH AND APPARENT AGREEMENT TO HOLD NEGOTIATIONS THROUGH MAY 27 SUGGEST HARD NEGOTIATING IS AHEAD ALTHOUGH PRESENCE OF ARMAND HAMMER SUGGESTS THAT ISLAND CREEK SEES FINALIZATION AS POSSIBLE.

3. REGARDING PARA 2 REF A AND TAX RULINGS ON CONTRACTS, WE UNDERSTAND THAT TAX RULING ON COST COMPANY NO LONGER APPLIES SINCE COMMERCIAL FRAMEWORK OF TRANSACTION HAS MOVED FROM A JOINT VENTURE. WHAT ILIESCU IS PROBABLY REFERRING TO HERE ARE NORMAL TAX RULINGS (FOR EXAMPLE: METHOD OF ACCOUNTING, INCOME FROM SALES, ETC.) WHICH MUST BE OBTAINED FROM IRS IN A TRANSACTION SUCH AS THIS. SURREY ATTORNEY TOOK VIEW THAT THERE SHOULD NOT BE ANY PROBLEM IN OBTAINING TAX RULINGS SHOWING NO TAX IMPLICATIONS FOR THIS PURCHASE CONTRACT. HOWEVER, HE DID WARN OF VERY REMOTE PROSPECT THAT IRS WOULD STILL SEE THIS TRANSACTION AS HAVING ATTRIBUTES OF A JOINT VENTURE AND THEREFORE DIFFERENT TAX CONSEQUENCES WOULD FOLLOW. ATTORNEY WAS OPTIMISTIC THAT THIS WOULD NOT BE IRS POSITION. IN ANY CASE, PARTIES CANNOT GO FORWARD TO IRS FOR TAX RULING UNTIL CONTRACT AGREED UPON. SURREY ATTORNEY NOTED THAT TIMING IS ALWAYS A PROBLEM WITH TAX RULINGS AND THAT IT COULD TAKE 3 TO 6 MONTHS TO GET NECESSARY RULINGS. WE UNDERSTAND THAT THIS ISSUE WILL BE DISCUSSED IN UPCOMING NEGOTIATIONS INCLUDING PRO-CONFIDENTIAL

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CEDURES FOR GOING FORWARD TO IRS.

4. REGARDING PARA 3 REF A AND PORT SECURITY-TRANSPORTATION ISSUE, OUR UNDERSTANDING FROM BOTH SURREY ATTORNEYS AND ADM. SHEPARD IS THAT WHILE ALL PARTIES ARE AWARE OF THIS ISSUE, LITTLE DISCUSSION HAS TAKEN PLACE REGARDING IT. EMBASSY WILL RECALL BEWT EFFORTS IN FEBRUARY INFORMING BOTH SIDES OF PORT SECURITY PROBLEM. SURREY ATTORNEY REPORTS THAT SUBJECT HAS COME UP GENERALLY DURING DISCUSSIONS WITH AMB. NICOLAE ABOUT PROJECT BUT THAT ATTORNEYS STILL DO NOT KNOW HOW ROMANIANS INTEND TO DEAL WITH THIS SINCE THEIR COMMUNICATIONS WITH ILIESCU HAVE BEEN INFREQUENT AND HAVE NOT FOCUSED ON THIS ISSUE.

THUS, SURREY ATTORNEYS PLANNING TO DISCUSS THIS ISSUE AND OTHERS IN SEPARATE SESSION ON MAY 23 PRIOR TO FULL SESSION WITH ISLAND CREEK PEOPLE. SURREY ATTORNEY COMMENTED THAT DESPITE USG EFFORTS TO WARN PARTIES OF THIS PROBLEM IT COULD END UP AS MAJOR NEGOTIATING OBSTACLE,

ESPECIALLY IF ROMANIANS UNWILLING TO BE FLEXIBLE HERE.
ISLAND CREEK SIDE AWARE OF ISSUE BUT BASICALLY WAITING
TO SEE WHAT ROMANIAN VIEW IS.

5. SCENARIO FOR NEXT WEEK AS FOLLOWS. SURREY ATTORNEYS
(NOWHEIM AND WICKERSHAM) ARRIVING FRIDAY AND SATURDAY
RESPECTIVELY. THEY INTEND TO MEET WITH ILIESCU ON
MONDAY TO DISCUSS CONTRACT ISSUES ALTHOUGH DETAILS
REGARDING TIMING OF MEETING, ETC. NOT YET CLEAR. SENATOR
GORE TO ARRIVE MONDAY FOR TALKS BEGINNING TUESDAY. ARMAND
HAMMER TO ARRIVE ON WEDNESDAY MAY 25.

BEWT AND DEPARTMENT SUGGEST EMBASSY OFFICER CONTACT
SURREY ATTORNEYS ON SUNDAY AT INTERCONTINENTAL H
HOTEL TO ARRANGE A MEETING WITH THEM SOMETIME ON MONDAY.
SURREY ATTORNEYS EXPRESSED INTEREST IN SPEAKING WITH
EMBASSY BUT WOULD PREFER IF EMBASSY STAFF APPROACHED
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THEM SINCE THEY ARE IN POSITION OF REPRESENTING GOR LEGAL
INTERESTS. WE FEEL SUCH A MEETING WOULD BE MOST USEFUL
FOR EMBASSY TO FULLY UNDERSTAND STATUS OF CONTRACT
NEGOTIATIONS AND PARTICULARLY COMPLEX TAX QUESTIONS
WHICH ARE A MYSTERY TO ROMANIANS AND ON WHICH SURREY
ATTORNEY NOWHEIM IS AN EXPERT. EMBASSY VIEWS ON ILIESCU
AND POSITIONS WHICH GOR LIKELY TO ADOPT ON OUTSTANDING
ISSUES, AND PARTICULARLY PORT SECURITY-TRANSPORTATION IS-
SUE, MAY ALSO HELP SURREY TEAM TO MOVE NEGOTIATIONS ALONG.
CHRISTOPHER

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